

Remarks

Claims 1 and 3-7 are currently pending in this application, with claim 1 being amended by and claims 2 and 10 being canceled by the present Amendment.

The Office Action rejected claims 1-7 and 10 under 35 U.S.C. § 103(a) as being unpatentable over Shaftner (U.S. Patent No. 5,308,188) in view of Grosh (U.S. Patent No. 3,974,599) and Wiedrich (U.S. Patent No. 5,956,905). Applicant respectfully traverses the Section 103(a) rejection, for the following reasons.

The present invention recited, for example, in claim 1, and claims 3-7 by virtue of dependence, comprises a combination of elements, including a resilient, replaceable collar and a resilient riser, wherein the resilient, replaceable collar and the resilient riser are made of cured, recycled rubber scrap from tires. Pages 9 and 10 of the Specification of the present application set forth the benefits of making the collar and riser from cured, recycled rubber scrap from tires:

... Recycled rubber scrap from tires has a relatively long life expectancy, such as twenty years or more, so that the resilient collar may be used over and over again.

* * *

By employing scrap rubber ... material in the manufacture of the collar, recycle of such waste material into a useful product is achieved. The collar does not generate waste, since damaged or discarded collars can themselves be recycled and fully used in the production of new or reconditioned collars.

In contrast, neither Shaftner, Grosh, nor Wiedrich discloses using cured, recycled rubber scrap from tires as materials of construction. Specifically, Shaftner discloses, preferably, using "a binary self thickening room temperature vulcanizing liquid rubber having inherent non-slip surface properties when cured." (Col. 3, lines 58-60). Grosh discloses using a "reinforced plastic mortar." (Col. 3, lines 41-42). Wiedrich discloses using recycled plastic with melting points greater than about 400°F and the ability to withstand a crushing load exceeding 65,000 psi. (Col. 8, lines 46-53).

In light of the above, Applicant submits that Shaftner, Grosh, and Wiedrich, whether taken alone or in any reasonable combination, fail to disclose or suggest the combination of elements recited in claims 1 and 3-7, including the resilient, replaceable collar and the resilient riser that are made of cured, recycled rubber scrap from tires. Thus, these claims are allowable over these references. Applicant, therefore, respectfully requests the reconsideration and withdrawal of the Section 103(a) rejection of these claims.

Applicant respectfully requests that this Amendment under 37 C.F.R. § 1.116 be entered, placing claims 1 and 3-7 in condition for allowance. Applicant submits that the proposed amendments of claim 1 do not raise new issues or necessitate the undertaking of any additional search of the art, since all of the elements and their relationships claimed were either earlier claimed or inherent in the claims as examined. Therefore, this Amendment should allow for immediate action.

Furthermore, Applicant respectfully points out that the final action presented some new arguments as to the application of the art against Applicant's invention. It is respectfully submitted that the entering of the Amendment would allow the Applicant to reply to the final rejections and place the application in condition for allowance.

Finally, Applicant submits that the entry of the Amendment would place the application in better form for appeal, should the patentability of the pending claims be disputed.

In view of the foregoing remarks, Applicant requests the entry of this Amendment, the reconsideration of the application, and the timely allowance of the pending claims.

If there are any other fees due in connection with the filing of this response, please charge the fees to our Deposit Account No. 03-2775. If a fee is required for an extension of time under 37

Application No. 09/549,002
Amendment dated February 4, 2004
Reply to Office Action of November 4, 2003

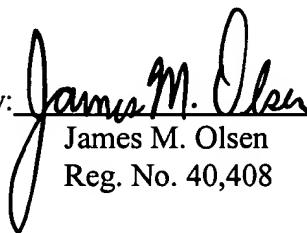
C.F.R. § 1.136 not accounted for above, such an extension is requested and the fee should also be charged to our Deposit Account.

Respectfully submitted,

CONNOLLY BOVE LODGE & HUTZ LLP

Dated: February 4, 2004

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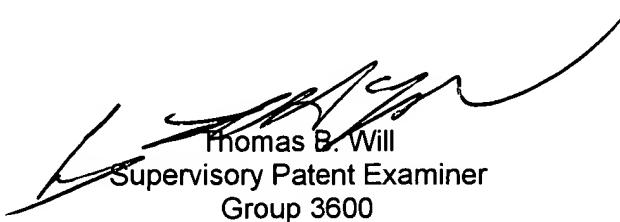
examiner's intention to actually use the Wiedrich reference to raise the manhole of Shaftner. Again, examiner has used the shape of the Wiedrich element to show that one skilled in the art wishing to raise any structure would use a horizontally planar element. Again, examiner is only using the planar aspect of the Wiedrich patent to teach that stacking multiple planar devices will raise an object.

Conclusion

4. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kristine M. Florio, whose telephone number is (703) 305-1676. The examiner can normally be reached on Mon-Fri from 8:30 am to 5:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thomas B. Will, can be reached on (703) 308-3870. The fax phone number for this Group is (703)305-3597.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 305-1113.



Thomas B. Will
Supervisory Patent Examiner
Group 3600

Kent
KMF
October 31, 2003